

EXHIBIT A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

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ANIBAL RODRIGUEZ, et al.,
individually and on behalf of
all other similarly situated,
Plaintiffs,

vs.

Case No.
3:20-CV-04688

GOOGLE LLC, et al.,
Defendants.

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VIDEO-RECORDED DEPOSITION OF SAL CATALDO
VERITEXT VIRTUAL
THURSDAY, FEBRUARY 17, 2022

Reported by:
Anrae Wimberley, CSR No. 7778
Job No. 5057262

1 Florez and Lori Arakaki, also of Willkie Farr & 09:06:36
2 Gallagher, as well as in-house counsel at Google
3 John Janhunnen.

4 MR. LEE: Morning.

5 James Lee, Boies Schiller Flexner, I'm 09:06:45
6 here with the plaintiffs.

7 I have with me Ryan McGee. And my
8 colleague Mark Mao will be coming in and out.

9 THE VIDEOGRAPHER: Thank you.

10 Will the court reporter please swear in 09:06:57
11 the witness.

12 SAL CATALDO,
13 sworn in remotely as a witness by the Certified
14 Shorthand Reporter, testified as follows:

15 EXAMINATION 09:06:59

16 BY MR. SANTACANA:

17 Q. Good morning, sir.

18 Would you mind stating your name for the
19 record.

20 A. Of course. Sal Cataldo. 09:07:25

21 Q. Mr. Cataldo, my name is Eduardo Santacana.
22 I'm an attorney for Google in this matter. I'll be
23 taking your deposition today.

24 Have you been deposed before?

25 A. I have. 09:07:38

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1 I was given control of my privacy. 11:02:27

2 As a privacy-minded person, I was told,

3 Hey, we care about your privacy. We protect your

4 information. We put you in control. That's in big

5 font and Google's promise, and then you broke that 11:02:39

6 promise and you invaded the privacy, so there's the

7 hurt of a broken promise, right?

8 I can't put into words what that looks

9 like, but I know it's wrong and I know it deserves

10 some sort of punishment or retribution for that. 11:02:57

11 So other than what I've quantified there,

12 there's a lot there that I can't sit here and

13 quantify and put the dollars and cents.

14 Unfortunately, the --

15 (Reporter seeks clarification.) 11:03:07

16 THE WITNESS: So, you know, as far as remedies

17 go, I know everything does kind of have to be

18 distilled into dollars and cents because as far as I

19 know, a lot of this stuff can't be undone. Although

20 to the extent that it can be undone, I would 11:03:24

21 certainly love that, too.

22 If you still have my information, I want

23 that gone. I want to make -- you know, measures

24 taken to ensure that Google doesn't continue to do

25 this and some macro-level stuff there, but I can't 11:03:33

1 into the process, right? 01:40:58

2 So on a football game, to me, there's a

3 contract of I'm going to watch TV, and the TV has a

4 contract to sell advertisement the way that they see

5 fit. And I also feel like I have the ability to get 01:41:14

6 up and walk away from the TV or whatever it is to

7 remove from the advertising.

8 So there is -- it's not a violation of

9 privacy because I think there's a different

10 expectation of privacy when watching cable 01:41:28

11 television.

12 Q. Than when you're browsing the Internet?

13 A. Correct.

14 Q. Why?

15 A. Because you gave me -- or Google gave me 01:41:38

16 an expectation of privacy in their policy that says

17 You can control what we receive. So you told me I

18 have the right to control it.

19 Q. So if the WAA button didn't exist and you

20 had never read those representations, then are you 01:41:53

21 saying that it wouldn't have been offensive to you

22 or it wouldn't have bothered you to see targeted

23 advertising?

24 MR. LEE: Objection; it calls for speculation,

25 incomplete hypothetical. 01:42:11

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1	Go ahead.	01:42:13
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2 THE WITNESS: If we're going to play the
3 what-if game, it would depend on the collection
4 methods, what were we told, what was the expectation
5 that was set. 01:42:24

6 So I think in that manner, you know,
7 whether it's a WAA button or not, I think it's
8 what -- you know -- you know, there would be some
9 equivalent version of how are you getting my data,
10 and are you telling me that you're getting my data 01:42:40
11 and what -- do I know if I go to look to see how is
12 my data being used, what can I find with regards to
13 that.

14 BY MR. SANTACANA:

15	Q. Well, let's talk about the football game,	01:42:52
16	right. You're television provider gets your data	
17	because you pay them for the television access,	
18	right?	

19 So they know where you live. They know
20 what you're watching. They put different ads on 01:43:07
21 different channels at different times depending on
22 what the program is. All of that is stuff you've
23 experienced throughout your life; right?

24 A. I mean, to the extent -- when you say,
25 this is what I've experienced throughout my life, 01:43:26

1 like, yes, I understand that a television provider 01:43:28
2 may say, Here's a location for whoever is opening
3 and accessing this cable box.

4 I don't know what data the cablevision
5 company or -- cablevision is easier -- or whether 01:43:45
6 the cable provider is providing to the various
7 television companies, things like that, I don't know
8 what their boxes have access to.

9 Q. Sure.

10 And I guess you don't need to know. I'm 01:43:56
11 not trying to get into that level of detail.

12 Let me just ask it this way, isn't part of
13 the reason that it doesn't offend you when you see a
14 mattress store ad from down the street during a
15 football game that the mattress store doesn't 01:44:12
16 actually know it's you who is watching, they're like
17 I want people who live here watching this game to
18 see my ad. They don't actually know it's Sal;
19 right?

20 MR. LEE: Objection to form. 01:44:26

21 Go ahead.

22 THE WITNESS: To use your phrase, yeah, part of
23 the reason, because they're saying, for instance, I
24 want all of Long Island to see it, or all of Suffolk
25 County. 01:44:51

1 They're not saying -- I think the 01:44:51
2 difference here is to have an advertiser directed
3 towards Sal or some disembodiment of Sal, they're
4 not saying -- right, like, for instance, we go to
5 the New York Times app, if you have an advertiser 01:45:08
6 that says, Hey, I want everyone who reads the New
7 York Times to see this advertisement, I think that
8 it's reasonable that if I open the New York Times,
9 there might be an advertisement there that someone
10 has said, Hey, I want everyone on the New York Times 01:45:21
11 app to see this, all New York Times readers
12 generally.

13 To then start taking -- to go further with
14 it and to package and distill it in a way that maybe
15 isn't me but somehow captures the essence of me to 01:45:37
16 then hyper target that, I think it then becomes a
17 matter of just consent. And I think if someone is
18 not okay with it, and I think if there's a choice to
19 opt out of that, right, that we can opt out.

20 Just like with cablevision, I could not 01:45:54
21 have cablevision if I don't like the level of
22 advertising there. Or now with DVR, you can skip
23 through the advertisement, things like that.

24 So I think it's less offensive in a way
25 because it feels a lot broader than the specific 01:46:07

1 with Internet, No. 1. 01:46:15

2 No. 2, I also think there's a difference

3 between me turning onto a particular channel at a

4 particular time to a particular cable provider than

5 with -- again, going back to what we said before the 01:46:27

6 break, my expectation, if I log onto Google.com

7 versus WAA, which then says we can take information

8 from any of these apps because the Firebase is so

9 pervasive throughout all of these apps that almost

10 anything that I'm doing, Google is there, right? 01:46:45

11 That's I think the ubiquity of Google in

12 these all various different activities. I wouldn't

13 expect my cable provider or my football game to give

14 me ads based upon my web browsing activity, or based

15 on whatever other electronics I owned in my house, 01:47:04

16 that if I had a refrigerator, that my refrigerator

17 was saying, Hey, this guy owns a Samsung

18 refrigerator and it goes through the electricity to

19 the cable box, which then tells Comcast, or whoever,

20 what brand refrigerator I have, right? 01:47:15

21 I think there's a certain level to what

22 are you collecting and what is that cable company

23 collecting it from.

24 So if Google is collecting from all these

25 other companies that I'm sharing my information to, 01:47:28

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1 that's where I think there's a very big distinction 01:47:28
2 between the advertisers on TV.
3 BY MR. SANTACANA:
4 Q. Okay. I think I understand your -- the
5 distinction that you're drawing. 01:47:39
6 Once again, back to the privacy policy.
7 A. Yep.
8 Q. Go to the last page of this PDF.
9 So at the top, it will say, "Page 32 of
10 32." 01:48:09
11 A. Yep, I'm there.
12 Q. Do you see the heading "your activity on
13 other sites and apps"?
14 A. Um-hum.
15 Q. Have you reviewed this paragraph before? 01:48:22
16 A. Yes.
17 Q. Did you review it before turning WAA off?
18 A. I can't recall the specific paragraph
19 because this is from 2020, and I turned WAA off
20 before 2020, so I don't know if this was the same 01:48:42
21 paragraph in a previous version.
22 Q. Got it. Okay. Understood.
23 Take a moment and review it now.
24 A. Sure.
25 (Witness reviews document.) 01:48:58

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1 So like I said, each time I know it was 02:58:24
2 certainly the official version. I don't even know
3 how often they update it, but -- so to recollect
4 each one, I don't know how I accessed each one, but
5 I certainly would always make sure that it's the 02:58:35
6 correct, you know, whatever it is, legitimate Google
7 site, official page and whatnot.

8 Q. Okay. Thanks.

9 You mentioned earlier today that you
10 weren't necessarily offended by receiving a 02:58:45
11 personalized ad.

12 Do you remember that?

13 A. Sure.

14 Q. Do you think that Google collecting and
15 saving your app activity without your consent is 02:58:56
16 offensive?

17 A. Yeah, that aspect, yeah.

18 Q. You were asked some questions today from
19 Google's lawyer where he compared Google to a local
20 mattress store that pays to have an ad displayed on 02:59:11
21 television.

22 Do you remember that?

23 A. I do.

24 Q. Is Google a mattress store?

25 MR. SANTACANA: Objection; lacks foundation. 02:59:22

1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California, do hereby
3 certify:

4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth;
6 that any witnesses in the foregoing proceedings,
7 prior to testifying, were administered an oath; that
8 a record of the proceedings was made by me using
9 machine shorthand which was thereafter transcribed
10 under my direction; that the foregoing transcript is
11 a true record of the testimony given.

12 Further, that if the foregoing pertains to
13 the original transcript of a deposition in a Federal
14 Case, before completion of the proceedings, review
15 of the transcript () was (X) was not requested.

16 I further certify that I am neither
17 financially interested in the action nor a relative
18 or employee of any attorney of any party to this
19 action.

20 IN WITNESS WHEREOF, I have this date
21 subscribed my name.

22 Dated: February 28, 2022

23
24 

25 ANRAE WIMBERLEY, CSR No. 7778